



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Tirell, LLC
DOCKET NO.: 13-01579.001-R-1
PARCEL NO.: 06-28-479-023

The parties of record before the Property Tax Appeal Board are Tirell, LLC, the appellant, by attorney Dennis M. Nolan, of Dennis M. Nolan, P.C. in Bartlett; and the Kane County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Kane County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$15,224
IMPR.: \$25,109
TOTAL: \$40,333

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Kane County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property consists of a part two-story and part one-story dwelling of frame construction with 1,414 square feet of living area. The dwelling was constructed in 1996. Features of the home include a full unfinished basement, central air conditioning, 1.5 bathrooms and an attached garage with 360 square feet of building area. The property has a 6,714 square

foot site and is located in South Elgin, Elgin Township, Kane County.

The appellant's appeal is based on overvaluation. In support of this argument the appellant submitted evidence disclosing the subject property was purchased on February 7, 2013 for a price of \$121,000. The appellant indicated on the petition that the parties to the transaction were not related and the property was sold through a Realtor. In further support of the transaction the appellant submitted a copy of the settlement statement and a copy of the PTAX-203 Illinois Real Estate Transfer Declaration associated with the sale. The transfer declaration indicated the property had been advertised for sale and that the property was a Bank REO (real estate owned) at the time of sale. Based on this evidence, the appellant requested a reduction in the subject's assessment to reflect the purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$53,436. The subject's assessment reflects a market value of \$158,358 or \$37.79 per square foot of living area, land included, when using the 2013 three year average median level of assessment for Kane County of 33.31% as determined by the Illinois Department of Revenue.

In support of its contention of the correct assessment the board of review submitted evidence provided by the Elgin Township Assessor. The assessor asserted the subject's sale was a foreclosure, cash transaction and the property sold "as is."

In further support of the assessment the township assessor provided information on five comparable sales improved with part two-story and part one-story dwellings of frame construction that ranged in size from 1,300 to 1,576 square feet of living area. The dwellings were constructed in 1994 and 1995. The comparables sold from July 2011 to September 2012 for prices ranging from \$175,500 to \$250,000 or from \$114 to \$142 per square foot of living area, including land, rounded.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale,

comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the purchase of the subject property in February 2013 for a price of \$121,000. The appellant provided evidence demonstrating the sale had elements of an arm's length transaction. The appellant provided evidence disclosing the parties to the transaction were not related, the property was sold using a Realtor and the property had been advertised on the open market. In further support of the transaction the appellant submitted a copy of the settlement statement disclosing that a broker's commission was paid. The record also contained a copy of transfer declaration disclosing the property was advertised for sale. The board of review also provided a statement from the township assessor disclosing the property sold "as is", which calls into the

question the condition of the property at the time of sale. The Board finds the purchase price is below the market value reflected by the assessment. Although the board of review submitted comparable sales the Property Tax Appeal Board finds this evidence did not overcome the fact the property was purchased after being exposed on the open market. Based on this record the Board finds a reduction in the subject's assessment is justified.


This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman



Member

Member



Member

Acting Member



Acting Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: November 20, 2015



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.